

REMARKS

Cancellation of claims 1-18 renders moot the objection to claim 10, and also renders moot the § 112, first paragraph rejection of claims 13, 15, and 17.

Cancellation of these claims further renders moot the § 102(b) rejection of claims 1, 2, 4, 6, 7, and 12 over Flom '349; renders moot the § 103(a) rejection of claims 13-17 over Flom in view of Okubo '028; renders moot the § 103(a) rejection of claims 3 and 8-11 over Flom in view of McMillen; renders moot the § 103(a) rejection of claim 5 over Flom in view of Fujieda '075; and renders moot the § 103(a) rejection of claim 18 over Flom in view of Okubo and further in view of Shamos '168.

Applicant respectfully traverses the § 103(a) rejection of claims 19 and 20 over Flom in view of McMillen. Moreover, although the rest of the prior art rejections are moot, applicant nevertheless traverses the application of the cited references against the cancelled claims, and any further application of these references against the present invention, as set forth, *e.g.*, in the new claims.

Flom '349 teaches a method of identifying a person by identifying characteristics of an image of a human iris, and judging whether a stored iris image and a photographed iris image are identical. The Flom method relates only to iris identification. Flom does not disclose and does not suggest utilizing this technique for data management by the ophthalmic apparatus to ensure accuracy of attribution of the data. For this reason, with respect to claims 19 and 20, Flom neither discloses nor suggests, in combination with the other elements of the claims, an optometry means for examining or measuring a patient's eye to obtain measurement data including refractive data, storage means for storing measurement data or surgical data generated based on the measurement data, or surgery means for performing surgery based on the surgical

data. It would not be obvious to combine McMillen with Flom, therefore, because the McMillen surgical apparatus is not compatible with the Flom identification system, and even if these devices were combined, the McMillen surgical apparatus would not receive from the Flom apparatus the surgical data needed to perform surgery.

Likewise, with respect to the invention as set forth in the new claims, Flom alone cannot input, measure, store, or otherwise manipulate measurement data needed for refractive correction, or generate surgical data based on the measurement data, and the cited secondary references, assuming *arguendo* they are properly combinable with Flom, which applicant respectfully denies, still would not disclose or suggest all of the features of the invention recited, *e.g.*, in new claims 21-29.

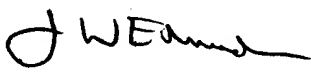
In view of the cancellation of claims 1-18, amendment of claims 19 and 20, addition of new claims 21-29, and the multiple differences between the amended and new claims and the cited references, applicant respectfully submits that the claims are patentable, and respectfully requests withdrawal of the rejections, reconsideration, and a prompt Notice of Allowance.

Please grant any additional extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 6, 2003

By: 
James W. Edmondson
Reg. No. 33,871

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com